

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LAURA HERNANDEZ,

Plaintiff,

v.

GE CAPITAL RETAIL BANK
d/b/a SYNCHRONY BANK,

Defendant.

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No. 4:14-cv-1875

PLAINTIFF'S COMPLAINT

LAURA HERNANDEZ ("Plaintiff"), through her attorneys, KROHN & MOSS, LTD., alleges the following against GE CAPITAL RETAIL BANK d/b/a SYNCHRONY BANK ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA").

JURISDICTION and VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331.
3. Defendant conducts business in the State of Texas thereby establishing personal jurisdiction.
4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Baytown, Harris County, Texas.
6. Defendant is a business entity with an office located at 200 Crossing Blvd., Bridgewater, New Jersey 08807.

7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. Defendant has been assigned multiple telephone numbers from its telephone service provider(s) to place telephone calls including, but not limited to, 937-534-2092.

9. Around the end of March or beginning of April, 2014, Plaintiff started receiving telephone calls from Defendant at telephone number (281) 662-62xx, which is Plaintiff's cellular telephone.

10. Defendant places as many as thirteen (13) calls per day to Plaintiff's cellular telephone.

11. All of Defendant's calls to Plaintiff's cellular telephone were placed using an automatic telephone dialing system or other equipment capable of storing and producing telephone numbers at random or sequential intervals to be dialed ("auto dialer").

12. Plaintiff answered one of Defendant's telephone calls and spoke with Defendant's employee, a male, who stated that Defendant was calling for an individual named Maria.

13. Plaintiff never authorized Defendant to call her cellular telephone for Maria.

14. Plaintiff informed Defendant that she is not Maria, does not know Maria, and to stop calling her cellular telephone because Defendant calls her during the day while she is at work.

15. Defendant continued to use an auto dialer to call Plaintiff's cellular telephone despite being told it was calling a wrong number.

16. Plaintiff spoke with one of Defendant's employees a second time, a female, and again informed Defendant that she is not Maria, does not know Maria, and to stop calling her cellular telephone.

17. Defendant continued to use an auto dialer to call Plaintiff's cellular telephone.

18. Plaintiff is annoyed and feels harassed by Defendant's constant and continuous calls to her cellular telephone.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

19. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

20. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

21. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

22. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

23. All court costs, witness fees and other fees incurred; and

24. Any other relief that this Honorable Court deems appropriate

RESPECTFULLY SUBMITTED,

Dated: July 3, 2014

By: /s/ Ryan Lee

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